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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/853,604	05/09/97	PRINGLE	VIIP04480050

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EXAMINER
MANOHARAN, V

ART UNIT	PAPER NUMBER
1764	5

DATE MAILED: 02/12/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/853,604

Applicant(s)
JOE ALLEN PRINGLE

Examiner
VIRGINIA MANOHARAN

Group Art Unit
1764



☒ Responsive to communication(s) filed on Nov 25, 1998

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-12 and 14-25 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 23 and 25 is/are allowed.

☒ Claim(s) 1, 3-6, and 24 is/are rejected.

☒ Claim(s) 2, 7-12, and 14-22 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1764

Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 24, last line, "said waveguide" should be -- said at least one waveguide-- for consistent used of terminology in the claims.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holland '141 in view of Balbaa et al.

The above references are applied for the same combined reasons as set forth at page 3, of the previous office action.

Claims 2, and 7-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 23-25 are allowable over the prior art of record.

Applicant's arguments filed on November 25, 1998 have been fully considered but they are not persuasive.

Art Unit: 1764

However, Balbaa et al was not cited to teach or suggest physically incorporating its microwave oven into the Holland's reference. Balbaa et al was applied to teach or suggest that the concept of permitting convectional and radiative heat transfer from one chamber to another from the microwave energy source as claimed, is not an unobvious subject matter nor is it evidence of criticality in the art. (To support a rejection under 35 U.S.C. based upon a combination of references, it is not necessary that the features of one reference be capable of bodily insertion into another reference. In re Keller, 208 USPQ 871 (CCPA 1981). Furthermore, applicant's argument that "...claim 1 now recites that the microwave supply means comprises at least first and second microwave energy sources positioned on opposite sides of the radiation chamber for directing microwave energy into the chamber so as to irradiate both sides of the tire received in the chamber.. This feature ...is not taught by any of the references cited..." is not considered well-taken. Although the Holland's patent shows or discloses a series of overhead microwave sources on one side only, however, it would have been obvious to one of ordinary skill in the art to provide the microwave sources on opposite sides, if the tires are to be irradiated on both sides. The claimed microwave supply means on both, opposite sides is deemed to be merely a matter of additive i.e., of the Holland's microwave supply means on one side. As it is seen, the Holland's apparatus which is comprised of a combination of housing or vessel 5; preheat zone 9; microwave discharge zone 10 and microwave sources 11a, 11b, 11c would read on the claimed combination of housing, preheat chamber, irradiation chamber and microwave energy supply means as broadly claimed in claim 1.

Art Unit: 1764

Absent evidence to the contrary, absolute predictability is not a prerequisite for obviousness. See *In re Kronig*, 190 USPQ 425, *In re Farnham*, 144 USPQ 746.

Thus, in the absence of anything which may be “new” or “unexpected result”, a prima facie case of obviousness has been reasonably established by the art and has not been rebutted.

Unexpected results must be established by factual evidence. Mere arguments or conclusory statements in the specification, applicants’ amendments, or the Brief do not suffice. *In re Lindner*, 457 F. 2d 506, 508, 173 USPQ 356,358 (CCPA 1972). *In re Wood*, 582, F. 2d 638, 642, 199 USPQ 137, 140 (CCPA 1978).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Application/Control Number: 08/853,604


Page 5

Art Unit: 1764

Any inquiry concerning this communication should be directed to Virginia Manoharan at telephone number (703) 308-3844.

VM

February 10, 1999


VIRGINIA MANOHARAN
PRIMARY EXAMINER
ART UNIT 132/1764
2/12/99